

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ERIN WHELAN,

Plaintiff,

-against-

NORTHSTAR LOCATION SERVICES, LLC,

Defendant.

VERIFIED COMPLAINT

NOW COMES Plaintiff, Erin Whelan (“Plaintiff”), by and through attorneys, Krohn & Moss, Ltd., for her Verified Complaint against Defendant, Northstar Location Services, LLC (“Defendant”), alleges as follows:

Nature of the Action

1. Count I of Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (“FDCPA”).

Jurisdiction and Venue

2. Jurisdiction of this Court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

3. Defendant conducts business in the State of New York; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

Parties

5. Plaintiff is a natural person residing in Buffalo, Erie County, New York.
6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
7. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.
8. Plaintiff is informed and believes, and thereon alleges, that Defendant is a collections business with an office in Cheektowaga, New York.
9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

Factual Allegations

10. In or around January of 2012, Defendant began placing calls to Plaintiff, apparently in connection with the collection of an alleged debt owed to Barclay's Bank.
11. Defendant calls Plaintiff from 866-610-2726, and possibly other numbers as well.
12. Defendant calls Plaintiff to her phone number ending in – 6979.
13. Defendant repeatedly calls Plaintiff and leaves voicemails on her phone which do not contain meaningful disclosure of the caller's identity or the purpose of the call, nor the admonishment that the communication is an attempt to collect a debt and that any information obtained will be used for that purpose.
14. For example, in or around February of 2012, Defendant representative left the following message:

“This is James Ross with Northstar Location Services I'm trying to get in touch with Erin Whelan. Erin I'm calling on behalf of my client, Barclay's Bank. I was hoping for a chance to speak with you about your options. Could you please return my call toll free at 866-677-2658 when calling use reference number 7661. It's important that I talk to you soon. Thank you.”

15. No further information is provided on the voicemails, and so Plaintiff has no way of knowing the identity of the caller or the purpose of the call.

CLAIM FOR RELIEF

16. Defendant violated the FDCPA based on, but not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt;
- b. Defendant violated §1692d(6) of the FDCPA through the placement of calls without meaningful disclosure of the caller's identity;
- c. Defendant violated § 1692e of the FDCPA through the use of false, deceptive, or misleading representation or means in connection with the collection of any debt; and
- d. Defendant violated §1692e(11) of the FDCPA through the failure to state in communications with a consumer in connection with the collection of a debt that the communication is from a debt collector and that any information obtained will be used for that purpose.

WHEREFORE, Plaintiff, ERIN WHELAN, respectfully requests judgment be entered against Defendant, NORTHSTAR LOCATION SERVICES, LLC., for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;

18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and

19. Any other relief this Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: /s/ Adam T. Hill

Adam T. Hill

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Attorneys for Plaintiff.

VERIFICATION

STATE OF NEW YORK)

:ss.:

COUNTY OF _____)

Plaintiff, ERIN WHELAN, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I believe that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, ERIN WHELAN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 3-19-12


ERIN WHELAN